

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Criminal Misc. No.M-25987 of 2017(O&M)
Date of Decision: April 25, 2018.**

Paramjit Singh

Petitioner.

Versus

State of Punjab

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.J.S.Jaidka, Advocate
for the petitioner.

Mr. D.S.Sukarcharkia, DAG., Punjab.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No.233 dated 13.11.2016, under Sections 363, 366-A IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO' Act), registered at Police Station Samrala, District Ludhiana.

It is submitted that the petitioner has been falsely implicated in this case. No offence punishable under Section 363, 366-A IPC and Section 4 of the POCSO Act, is made out against the petitioner. It is submitted that the prosecutrix had admittedly completed her matriculation at the time of the occurrence. She accompanied the petitioner on her own on 13.11.2016, though it is undoubtedly stated by her that she was threatened by the petitioner. However, in her cross-examination, the prosecutrix admitted that the petitioner was not armed with any weapon. She did not raise any alarm though they admittedly

passed through populated area. In her cross-examination, the prosecutrix, it is submitted has clearly stated that she stayed in a room at Naina Devi, where another lady and her two children were present. She never informed the said lady or anyone else about being abducted by the petitioner and neither did she ever inform her own parents about the petitioner earlier teasing her while on the way to school.

Learned counsel for the petitioner vehemently argues that the petitioner, who is not involved in any other criminal case, is not involved in the commission of the offence. It is highly debatable whether any offence under Section 366-A IPC or Section 4 of POCSO Act, is made out against the petitioner. The petitioner, it is submitted has been in custody since 19.05.2017. He undertakes to face the proceedings and not abuse the concession of bail, if afforded to him. It is thus prayed that this petition be allowed.

Certified copies of the statements of PW-1, the complainant and PW-2, the prosecutrix, furnished in Court today, are taken on record subject to just exceptions.

Learned counsel for the State has opposed this petition while submitting that the question of consent or otherwise is irrelevant as the prosecutrix was minor at the time of incident. However, it is not denied that the prosecutrix as well as the complainant has since deposed before the learned trial Court. On instructions from ASI Jaswinder Singh, it is verified that the petitioner is not involved in any other criminal case. Ten prosecution witnesses are yet to be examined.

There are no allegations on behalf of the State that the petitioner is

likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the Court, if released on bail. Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition filed by Paramjit Singh, is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court.

Petitioner shall not attempt to contact the victim or any of her family members/witnesses in any manner directly or indirectly. Any such infraction shall entail cancellation of bail afforded to her.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

25.04.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.